

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ERASMO GARZA,

Petitioner,
VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. C-09-303

**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION TO GRANT
RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

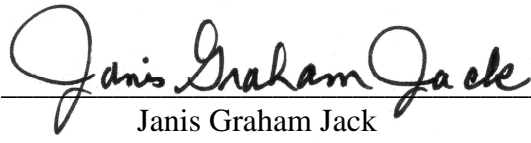
On March 2, 2010, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that respondent's motion for summary judgment (D.E. 12) be granted, that petitioner's petition (D.E. 1) be dismissed, and that petitioner be denied a certificate of appealability. On March 19, 2010, petitioner filed Objections to the Magistrate's Recommendations.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and petitioner's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, it is ORDERED that respondent's motion for summary judgment is granted and petitioner's petition is dismissed. Petitioner is denied a certificate of appealability.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 23rd day of April, 2010.



Janis Graham Jack
United States District Judge